

Remarks Regarding Claim of Priority

In the present official action, the examiner has maintained his objection to applicant's claim of priority to United States provisional application serial number 60/265,347. The examiner has indicated that the oath as filed on March 12, 2002 did not contain the reference to the prior-filed provisional application since the oath as on file at the office only contains two pages. Applicant submits that this rejection is in error and submits the following Exhibits and arguments in support of applicant's claim of priority.

Therefore, enclosed in support of the claim of priority are the following Exhibits:

- Exhibit 1: a copy of the Completion of Filing Requirements—Nonprovisional application submitted on March 12, 2002 and bearing the mailing certification under 37 C.F.R. §1.8 clearly showing the mailing date of March 12, 2002;
- Exhibit 2: a copy of the three-page declaration submitted as an attachment to the document listed as Exhibit 1 on March 12, 2002; and
- Exhibit 3: a copy of the return postcard for the documents listed as Exhibits 1 and 2 above, with the official received stamp indicating receipt by the United States Patent and Trademark Office on March 20, 2002 of the submissions dated March 12, 2002, including specifically the "Declaration of Stephen B. Maguire (3 pages)."

37 C.F.R. §1.78(a)(5) states that "Any non provisional *application* or international *application* designating the United States of America claiming the

benefit of one or more prior-filed provisional applications must contain or be amended to contain a reference to each such prior-filed provisional application, identifying it by the provisional application number (consisting of series code and serial number)” (emphasis added).

37 C.F.R. §1.78(a)(5)(ii) goes on to state “This reference must be submitted during the pendency of the later-filed application. If the later filed application is an application under 35 U.S.C. §111(a), this reference must also be submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed provisional application.”

Since a complete “application” as defined by 37 C.F.R. §1.51 specifically contains the oath [see 37 C.F.R. §1.51(b)(2)], it is submitted that the reference to the prior-filed provisional application was made in the application within the time frame required under 37 C.F.R. §1.78(a)(5)(ii) under the mailing requirements of 37 C.F.R. §1.8, as supported by Exhibits 1, 2 and 3.

Accordingly, applicant requests that the present application be accorded the benefit of the claim of priority to United States provisional application serial number 60/265,347, and that the request to amend the specification to contain the reference to the prior-filed provisional application be accepted.

**Remarks Regarding
Information Disclosure Statement filed by Applicant on March 21, 2003**

The examiner has indicated that the information disclosure statement filed on March 21, 2003 was improper because it did not contain a list of all patents,

publications, or other information submitted for consideration by the Office.

Applicant believes this is in error and encloses the following exhibits in support of applicant's claim that the information disclosure statement, with the list of documents, was properly filed.

- Exhibit 4: a copy of the second supplemental disclosure statement filed March 21, 2003 with a form PTO-1449 as an attachment to the statement; and filed under 37 C.F.R. §1.10 under express mail label EL926902885US;
- Exhibit 5: a copy of the express mail label EL926902885US showing the mailing date of March 21, 2003; and
- Exhibit 6: a copy of the return postcard for the documents listed as Exhibit 4 above, with the official received stamp indicating receipt by the United States Patent and Trademark Office on March 21, 2003 of the submissions dated March 21, 2003, including specifically a "Form PTO-1449 Modified."

Accordingly, applicant submits that the information disclosure statement was properly filed under the mailing requirements of 37 C.F.R. §1.10, and further requests that the examiner indicate his consideration of the documents by initialing and returning a copy of the Form PTO-1449 filed March 21, 2003.

Remarks in Support of Patentability

Applicant once again traverses the restriction requirement.

Applicant herein formally traverses the rejection under section 102(b) of claims 1-4, 6, 7, 11, 12, 23, 24, 27, 68-72 and 74-76 as being anticipated by Miner (US 2,606,696).

Applicant also herein formally traverses the rejection under section 102(b) of claims , 4-6, 14, 15, 22-24 and 27-30 as being anticipated by Poitras et al. (US 2,665,825).

Applicant further formally traverses the rejection under section 102(b) of claims 16, 18-23, 49, 50, 68-82 as being anticipated by Conover (US 2,656,828).

Applicant finally further formally traverses the rejection under section 103(a) of claims 16-19, 51 and 52.

Applicant's failure to formally traverse these objections was an inadvertent and unintentional error and does not indicate that applicant agreed with the examiner's assertions regarding patentability of the claims over the cited references, nor does it indicate that applicant has admitted that these claims are unpatentable.

The claims have been amended to distinguish over the prior art and to obviate the rejections of the claims made by the examiner.

Specifically, claim 1 has been amended to recite that the pump within the container is a diaphragm pump having a liquid color inlet to a first chamber bounded in part by a first side of the diaphragm with the diaphragm sealingly separating the pump into two interior chambers with the second side of the

diaphragm sealingly bounding the second chamber from the first chamber.

Claim 1 has been further amended to recite mechanical means contacting the diaphragm on the second side for reciprocatingly displacing the diaphragm into the first chamber to displace therefrom liquid color resin therein. Claim 1 has further been amended to recite resilient means residing in the first chamber contacting the first side of the diaphragm and biasing the diaphragm towards the first chamber when displaced by the mechanical means.

Applicant respectfully submits that when the references cited by examiner are considered, either taken individually or collectively, claim 1 is now distinguishable over those references.

Specifically, claim 1 has been amended to recite that the second side of the diaphragm sealingly bounds the second chamber from the first chamber to maintain the second chamber "liquid free". This distinguishes claim 1 over most of the references cited by the examiner.

Siczek, U.S. patent 3,957,399 specifically involves a diaphragm membrane having pump diaphragm member separates the chamber into two parts and that both parts of the chamber are filled with liquid, one side of the chamber has hydraulic oil; the other side of the chamber has the liquid being pumped. This is not the case with applicant's "liquid free" second chamber.

Poitras is similar to Siczek in providing a diaphragm having liquid on both sides of the diaphragm where there is a fluid providing the driving pressure at the lower side of the diaphragm and Poitras to dispense the soap or other liquid

material from the upper side of the diaphragm. Again, applicant's claim 1 is distinguishable by providing a "liquid free" second chamber.

Claim 1 is further distinguishable over Conover in that Conover has a plunger 57 which is conventionally connected with a diaphragm and normally biased towards the upward position in which it is shown in Figure 3 in Conover by a compression spring 59 pocketed in the lower casing member 46 and acting upwardly on the diaphragm. Claim 1 has been amended to distinguish over this by reciting resilient means residing in the first chamber connecting the first side of the diaphragm to bias the diaphragm towards the first chamber when displaced by the mechanical means. In other words, the spring involved in applicant's valve only operates to bias the diaphragm once the diaphragm has been displaced by the mechanical driving part of applicant's pump.

Applicant respectfully submits that when these claim amendments are considered in light of the foregoing remarks, the extant rejections of the claims should be withdrawn and a notice of allowance issued forthwith. Notification of the same is respectfully solicited.

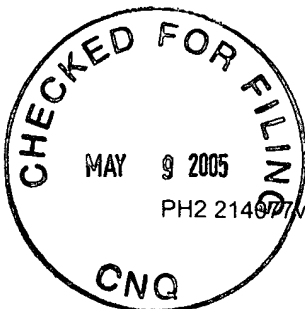
To the extent there is any fee required in connection with the receipt, acceptance and/or consideration of this paper and/or any accompanying papers submitted herewith, please charge all such fees to Deposit Account 50-1943.

Respectfully submitted,



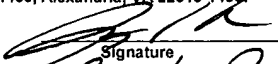
CHARLES N. QUINN
Registration No. 27,223
Attorney for Applicant

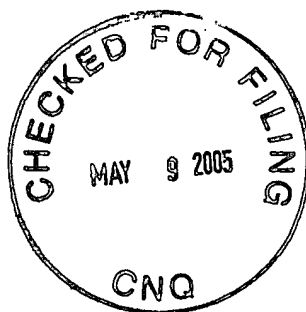
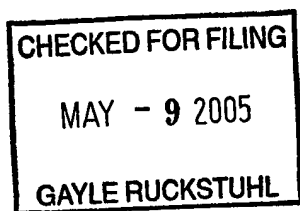
Date: 9 May 2005

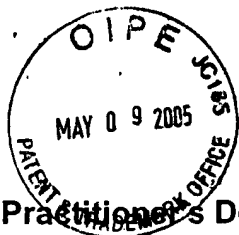


PH2 214677v1 05/09/05

Fox Rothschild, LLP
2000 Market Street, 10th Floor
Philadelphia, PA 19103
Tel: 215-299-2135
Fax: 215-299-2150
email: cquinn@foxrothschild.com

Certificate of Mailing Under 37 C.F.R. 1.10	
EXPRESS MAIL NO.:	EV334311036US
I hereby certify that this paper, along with any paper referred to as being attached or enclosed and/or fee is being deposited with the United States Postal Service, "Express Mail - Post Office to Addressee" service under 37 C.F.R. 1.10, on the date indicated below, and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.	
9 May 2005 Date of Deposit	 Signature
	Gayle Ruckstuhl Type or print name of person





Practitioner's Docket No. 40526.10001

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Maguire, Stephen B.

Application No.: 10/066,338

Group No.: 1723

Filed: January 31, 2002

Examiner: TBA

For: LIQUID COLOR PUMPING

METHOD AND SUPPLY APPARATUS

Box Missing Part

Assistant Commissioner for Patents

Washington, D.C. 20231

COMPLETION OF FILING REQUIREMENTS
-- NONPROVISIONAL APPLICATION

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*

(When using Express Mail, the Express Mail label number is mandatory;
Express Mail certification is optional)

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

☒ deposited with the United States Postal Service in an envelope addressed to the Assistant Commissioner of Patents, Washington D.C. 20231

37 CFR 1.10

☒ with sufficient postage as first class mail.☐ as "Express Mail Post Office to Addressee" Mailing Label

No. _____

TRANSMISSION

☐ facsimile transmitted to the Patent and Trademark Office, 703 _____

Date: March 12, 2002

Signature

Type or print name of person certifying

* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

I. This replies to the Notice to File Missing Parts of Application (PTO-1533) mailed February 28, 2002.

A copy of the Notice to File Missing Parts of Application--Filing Date Granted (Form PTO-1533) is enclosed.

DECLARATION OR OATH

II. No declaration or oath was filed. Enclosed is the original declaration or oath for this application, which declaration was executed on February 4, 2002, before the identification of the serial number of this application.

FORMAL DRAWINGS

III. Formal drawings for this application were dispatched to the U.S. Patent and Trademark Office on March 1, 2002. However, for the Office's convenience, a duplicate set of drawings of nine (9) sheets comprising Figures 1-8 are submitted herewith.

SMALL ENTITY STATUS

IV. Applicant claims small entity status under 37 C.F.R. 1.127.

COMPLETION FEES

V.

1. Filing Fee

Original patent application	
(37 C.F.R. Section 1.16(a))	\$370.00

2. Fees for Claims

Each independent claim in excess of 3

(37 C.F.R. Section 1.16(b))	\$336.00
Each claim in excess of 20	
(37 C.F.R. Section 1.16(c))	\$423.00

3. Surcharge Fees

Late payment of filing fee and/or late filing of original declaration or oath	
(37 C.F.R. Section 1.16(e))	\$65.00

Total Completion Fees \$1,194.00

EXTENSION OF TIME

VI. The proceedings herein are for a patent application, and the provisions of 37 C.F.R. Section 1.136(a) apply.

Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

TOTAL FEE DUE

VII. The total fee due is:

Completion fees	\$1,194.00
Extension fee (if any)	\$0.00
Total Fee Due	\$1,194.00

PAYMENT OF FEES

VIII. Enclosed is a check in the amount of 1,194.00.

Please charge Account No. 50-1943 for any fees that may be due by this paper.

Date: 12 March 02

A handwritten signature in black ink, appearing to read 'C. N. Quinn', written over a horizontal line.

Charles N. Quinn
Registration No. 27,223
Fox, Rothschild, O'Brien & Frankel, LLP
2000 Market Street, 10th Floor
Philadelphia, PA 19103
215-299-2135

Exhibit 2



COMBINED DECLARATION AND POWER OF ATTORNEY

(ORIGINAL, DESIGN, NATIONAL STAGE OF PCT, SUPPLEMENTAL, DIVISIONAL, CONTINUATION, OR C-I-P)

As a below named inventor, I hereby declare that:

TYPE OF DECLARATION

This declaration is for an original application.

INVENTORSHIP IDENTIFICATION

My residence, post office address and citizenship are as stated below, next to my name. I believe that I am the original, first and sole inventor of the subject matter that is claimed, and for which a patent is sought on the invention entitled:

TITLE OF INVENTION

LIQUID COLOR PUMPING METHOD AND SUPPLY APPARATUS

SPECIFICATION IDENTIFICATION

The specification was filed on January 31, 2002; the serial number has not yet been received.

ACKNOWLEDGMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information, which is material to patentability as defined in 37, Code of Federal Regulations, Section 1.56.

PRIORITY CLAIM (35 U.S.C. Section 119(a)-(d))

I hereby claim foreign priority benefits under Title 35, United States Code, Section 119(a)-(d) of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application(s) for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed.

No such applications have been filed.

CLAIM FOR BENEFIT OF PRIOR U.S. PROVISIONAL APPLICATION(S)
(35 U.S.C. Section 119(e))

I hereby claim the benefit under Title 35, United States Code, Section 119(e) of any United States provisional application(s) listed below:

PROVISIONAL APPLICATION NUMBER

60/265,347

FILING DATE

January 31, 2001

POWER OF ATTORNEY

I hereby appoint the following practitioners to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

APPOINTED PRACTITIONERS

Charles N. Quinn

John P. Blasko

REGISTRATION NUMBERS

27,223

31,149

I hereby appoint the practitioners associated with the Customer Number provided below to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith.

SEND CORRESPONDENCE TO

Charles N. Quinn, Esquire
2000 Market Street
Philadelphia, PA 19103

DIRECT TELEPHONE CALLS TO:

Charles N. Quinn, Esquire
215-299-2137

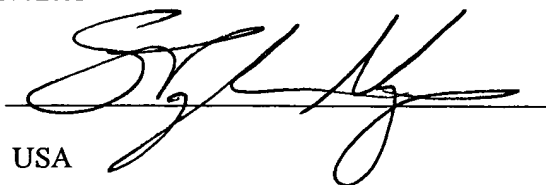
DECLARATION

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

SIGNATURES

Stephen B. Maguire, Inventor

Inventor's signature



Date

2/4/02

Country of Citizenship USA

Residence Glen Mills, PA

Post Office Address 1549 E. Street Road, Glen Mills, PA 19342 USA



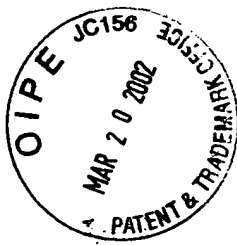
The following items were received by the PTO:

Completion of Filing Requirements;
Copy of Notice to File Missing Parts;
Declaration of Stephen B. Maguire (3 pages)
Nine (9) pages of formal drawings comprising
Figures 1-8
Check in the amount of \$1,194.00

Docket No.: 40526.10001

In re: Patent application of
Stephen B. Maguire
Serial No.: 10/066,338
Filed: January 31, 2002
For: LIQUID COLOR PUMPING METHOD
AND SUPPLY APPARATUS

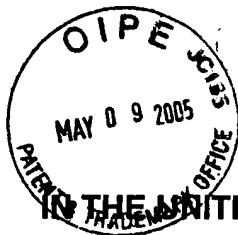
The PTO is respectfully requested to place its STAMP on the POSTAL CARD and place it in the
outgoing mail.



Charles N. Quinn
Reg. No. 27, 223
Date: March 12, 2002

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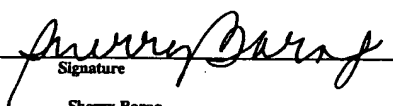
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ATTORNEY DOCKET: 40526.10001
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Patent application of: : Group Art Unit:
Stephen B. Maguire : 1723
Serial No: 10/066,338 : Examiner:
Filed: January 31, 2002 : TBA
For: LIQUID COLOR PUMPING METHOD :
AND SUPPLY APPARATUS :

Certificate of Mailing Under 37 C.F.R. 1.10	
EXPRESS MAIL NO.:	EL 926902885US
I hereby certify that this paper, along with any paper referred to as being attached or enclosed and/or fee is being deposited with the United States Postal Service, "Express Mail - Post Office to Addressee" service under 37 C.F.R. 1.10, on the date indicated below, and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.	
3-21-03 Date of Deposit	 Signature
	Sherry Barag Type or print name of person

Commissioner for Patents
Washington, D.C. 20231

Sir:

SECOND SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Pursuant to 37 C.F.R. §1.56 and in accordance with 37 C.F.R. §§1.97-1.98, information relating to the above-identified application is hereby disclosed. This statement is not to be construed as an admission that the information submitted

herewith is "material" to the examination of this application or to the patentability of the invention, as the term "material" is defined in 37 C.F.R. §1.56(b).

In accordance with §1.97(b), since this Information Disclosure Statement is being filed before the mailing date of a first Office Action on the merits of the above-identified application, no additional fee is required.


Copies of each of the references listed on the attached Form PTO-1449 are enclosed herewith.

It should be noted that all of the references cited in the attached International Search Report were previously submitted to the U.S. Patent and Trademark Office in the Supplemental Information Disclosure Statement filed October 4, 2002.

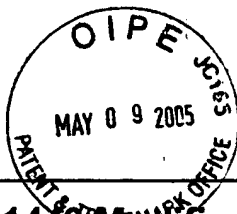
Please charge any deficiency or credit any overpayment to Deposit Account No. 50-1943.

Respectfully submitted,

Date: 21 March 2003


CHARLES N. QUINN
Registration No. 27,223
Attorney for Applicant

Fox, Rothschild, O'Brien & Frankel, LLP
2000 Market Street, 10th Floor
Philadelphia, PA 19103
Tel: 215-299-2135
Fax: 215-299-2150
email: cquinn@frof.com



Form PTO-1449 Modified				Client Matter No. 40526.10001		Serial No. 10/066,338	
List of Patent and Publications Cited by Applicant (Use several sheets if necessary)				Applicant Stephen B. Maguire			
				Filing Date January 31, 2002		Group 1723	
U.S. Department of Commerce Patent and Trademark Office							
U. S. PATENT DOCUMENTS							
Examiner		Document	Date	Name	Class	Subclass	
Initial		No.					
FOREIGN PATENT DOCUMENTS							
Examiner		Document No.	Date	Country	Translation		
Initial					YES	NO	
OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)							
	AA	International Search Report dated 2/20/2003 in connection with corresponding application PCT/US02/02934					
	AB	Written Opinion dated 3/24/03 in connection with corresponding application PCT/US02/02934					
EXAMINER				DATE CONSIDERED			

Exhibit 51



UNITED STATES POSTAL SERVICE®

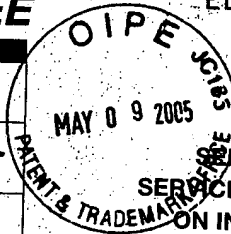
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EL 926902885 US

ORIGIN (POSTAL USE ONLY)

PO ZIP Code 19104	Day of Delivery <input type="checkbox"/> Next <input type="checkbox"/> Second	Flat Rate Envelope <input type="checkbox"/>
Date In 3.21.03	<input type="checkbox"/> 12 Noon <input type="checkbox"/> 3 PM	Postage \$ 13.65
Time In <input type="checkbox"/> AM <input checked="" type="checkbox"/> PM	Military <input type="checkbox"/> 2nd Day <input type="checkbox"/> 3rd Day	Return Receipt Fee
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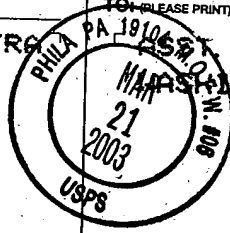
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ASST. COMMISSIONER FOR PATENTS
WASHINGTON DC 20231-0001



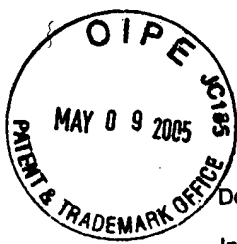
40526-10001

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Docket No.: 40526.10001

In re: Patent application of
Stephen B. Maguire
Serial No.: 10/066,338
Filed: January 31, 2002
For: LIQUID COLOR PUMPING METHOD
AND SUPPLY APPARATUS

The following items were received by the PTO:

Second Supplemental Information Disclosure
Statement (in duplicate)
Form PTO-1449 Modified
two (2) references

.....
The PTO is respectfully requested to place its STAMP on the POSTAL CARD and place it in the
outgoing mail.

EXPRESS MAIL: EL926902885US

Charles N. Quinn
Reg. No. 27, 223
Date: March 21, 2003



PH2 91394v1 01/10/02

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